

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE AIMMUNE THERAPEUTICS,
INC. SECURITIES LITIGATION

Case No. 20-cv-06733-MMC

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFFS'
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER ANOTHER
PARTY'S MATERIAL SHOULD BE
SEALED IN CONNECTION WITH CO-
LEAD PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT;
DIRECTIONS TO PLAINTIFFS**

Before the Court is plaintiffs' "Administrative Motion to Consider Whether Another Party's Material Should Be Sealed in Connection with Co-Lead Plaintiffs' Motion for Partial Summary Judgment," filed June 14, 2024 (Doc. No. 148 ("Administrative Motion")), whereby plaintiffs seek to file under seal the following materials, which, plaintiffs state, have been designated as confidential by defendants: (1) portions of "Co-Lead Plaintiffs' Motion for Partial Summary Judgment and Memorandum of Supporting Points and Authorities" (Doc. No. 153); and (2) exhibits attached to the "Declaration of Juan E. Monteverde in Support of Co-Lead Plaintiffs' Motion for Partial Summary Judgment" (Doc. No. 154 ("Monteverde Declaration")). In response to the Administrative Motion, defendants have filed a Declaration in support of sealing. (See Declaration of Barbara Sanchez (Doc. No. 179).)

The Court having read and considered the above-referenced submissions, the Administrative Motion is hereby GRANTED in part and DENIED in part as follows:

1. To the extent the Administrative Motion seeks leave to file under seal portions of "Co-Lead Plaintiffs' Motion for Partial Summary Judgment and Memorandum of

Supporting Points and Authorities” the Administrative Motion is GRANTED as to:¹

- page 9, lines 17-19 (the first bullet point on the page);
- page 12, lines 4-6 (the second bullet point on the page);
- page 12, lines 11-12 (the fifth bullet point on the page);
- page 12, lines 13-17;
- page 13, lines 4-6;
- page 13, footnote 45;
- page 24, lines 11-12.

In all other respects, the Administrative Motion is DENIED, the designating parties not having sought to have other portions sealed.

2. To the extent the Administrative Motion seeks leave to file under seal the deposition transcript of Gregory Behar (December 21, 2023) (Monteverde. Decl. Attachment 2, Doc. No. 154-2), the administrative motion is GRANTED as to the following page and line numbers:

- 7:24;
- 8:3-6;
- 8:14;
- 8:17-19;
- 9:11-12;
- 9:16;
- 13:25;
- 15:23-16:3;
- 16:17-19:5;
- 20:19-21;
- 20:24-21:11;

¹ The below listed seven page/line numbers correspond to the text highlighted in gray in Attachment 1 to the Administrative Motion. (See Doc. No. 148-1.)

United States District Court
Northern District of California

- 1 • 21:13-21;
- 2 • 21:24-22:3;
- 3 • 27:25-28:5;
- 4 • 29:9-16;
- 5 • 30:6-12;
- 6 • 30:14-21;
- 7 • 31:4-12;
- 8 • 35:8-36:3;
- 9 • 36:5-12;
- 10 • 38:5-40:1;
- 11 • 40:5-19;
- 12 • 40:23-41:2;
- 13 • 41:16-43:2;
- 14 • 45:16-46:23;
- 15 • 47:13-50:6;
- 16 • 50:25-53:20;
- 17 • 54:3-59:15;
- 18 • 71:21-23;
- 19 • 72:2-18;
- 20 • 74:12-79:18;
- 21 • 80:11-96:18;
- 22 • 98:16-103:25;
- 23 • 104:3-105:14;
- 24 • 105:18-22;
- 25 • 106:18-107:8;
- 26 • 107:10-16;
- 27 • 108:21-111:12;
- 28 • 111:15-20;

United States District Court
Northern District of California

- 1 • 111:24-115:16;
- 2 • 115:19-24;
- 3 • 116:3-117:4;
- 4 • 119:15-22;
- 5 • 122:3-4;
- 6 • 122:7-14;
- 7 • 126:12-127:17;
- 8 • 127:22-128:6;
- 9 • 128:11-129:7;
- 10 • 132:5-14;
- 11 • 132:20-22;
- 12 • 134:17-135:22;
- 13 • 136:2-11;
- 14 • 137:19-138:2;
- 15 • 140:6-12;
- 16 • 140:25-141:6;
- 17 • 141:12-15;
- 18 • 141:18-142:16;
- 19 • 143:14-144:3;
- 20 • 144:10-24;
- 21 • 145:3-11;
- 22 • 146:21-147:22;
- 23 • 148:3-21;
- 24 • 149:2-25;
- 25 • 150:8-151:9;
- 26 • 158:14-21;
- 27 • 159:3-10;
- 28 • 160:6-21;

- 160:24-162:5;
- 166:11-171:21;
- 172:4-173:20;
- 174:6-13;
- 174:17-23;
- 176:11-23;
- 177:7-21;
- 178:19-179:7.

In all other respects, the Administrative Motion is DENIED, the designating parties not having sought to have other portions sealed.

3. To the extent the Administrative Motion seeks leave to file under seal the deposition transcript of Martin Hendrix (December 19, 2023) (Monteverde. Decl. Attachment 8, Doc. No. 154-8), the administrative motion is GRANTED as to the following page and line numbers:

- 10:8-9;
- 14:14-22;
- 17:20-25;
- 18:4-20;
- 18:22-19:9;
- 19:11-13;
- 19:15-18;
- 22:7-16;
- 22:18-19;
- 22:22-24;
- 23:1-5;
- 24:1-8;
- 24:15-25:1;
- 32:2-11;

United States District Court
Northern District of California

- 1 • 34:13-20;
- 2 • 34:22-25;
- 3 • 35:4-7;
- 4 • 35:10-15;
- 5 • 35:18-19;
- 6 • 36:3-5;
- 7 • 36:13-20;
- 8 • 36:22-25;
- 9 • 37:3;
- 10 • 37:8-16;
- 11 • 38:7-24;
- 12 • 39:1-7;
- 13 • 43:5-19;
- 14 • 44:3-5;
- 15 • 44:7;
- 16 • 44:14-17;
- 17 • 44:19;
- 18 • 45:2-9;
- 19 • 47:18-22;
- 20 • 48:1-17;
- 21 • 49:8-25;
- 22 • 50:4-5;
- 23 • 50:16;
- 24 • 50:19-52:20;
- 25 • 52:23-24;
- 26 • 53:2-3;
- 27 • 55:3-10;
- 28 • 55:13-16;

United States District Court
Northern District of California

- 1 • 55:20-25;
- 2 • 56:19-57:11;
- 3 • 57:15-58:5;
- 4 • 58:21-23;
- 5 • 59:1-3;
- 6 • 59:5-15;
- 7 • 59:19-22;
- 8 • 59:24-25;
- 9 • 60:2-4;
- 10 • 60:19-61:5;
- 11 • 61:23-62:11;
- 12 • 62:16-22;
- 13 • 63:6-64:4;
- 14 • 70:24-71:12;
- 15 • 74:5-12;
- 16 • 77:13-19;
- 17 • 78:7-79:6;
- 18 • 80:19-23;
- 19 • 81:4-23;
- 20 • 82:2-5;
- 21 • 82:12-18;
- 22 • 83:2-15;
- 23 • 83:17-22;
- 24 • 84:17-85:22;
- 25 • 86:15-17;
- 26 • 86:21-88:15;
- 27 • 88:19-23;
- 28 • 89:3-4;

United States District Court
Northern District of California

- 1 • 89:9-12;
- 2 • 89:15-20;
- 3 • 90:12-13;
- 4 • 90:18-91:12;
- 5 • 91:14-16;
- 6 • 91:22-92:4;
- 7 • 93:19-22;
- 8 • 93:24-95:3;
- 9 • 96:18-20;
- 10 • 97:1-4;
- 11 • 97:6-10;
- 12 • 98:1-12;
- 13 • 99:2-5;
- 14 • 104:24-105:8;
- 15 • 105:11-12;
- 16 • 105:14-18;
- 17 • 107:24-108:10;
- 18 • 108:12-22;
- 19 • 109:10-22;
- 20 • 110:14-16;
- 21 • 122:17-20;
- 22 • 123:4-124:17;
- 23 • 126:3-19;
- 24 • 134:15-23;
- 25 • 134:25-135:3;
- 26 • 135:14-18;
- 27 • 136:8-11;
- 28 • 136:13;

- 136:15-18;
- 136:20-137:2;
- 139:8-142:22;
- 143:13-24;
- 144:8-145:1.

In all other respects, the Administrative Motion is DENIED, the designating parties not having sought to have other portions sealed.

4. To the extent the Administrative Motion seeks leave to file under seal the deposition transcript of Andrew Oxtoby (December 20, 2023) (Monteverde. Decl. Attachment 11, Doc. No. 154-11), the administrative motion is GRANTED as to the following page and line numbers:

- 9:17-18;
- 9:21;
- 9:24;
- 92:21-25;
- 152:3-6;
- 259:9-16;
- 264:24;
- 265:5;
- 265:10;
- 265:12-13;
- 265:15-18;
- 265:22-24;
- 266:7-8;
- 266:19-23;
- 267:5-6;
- 267:9;
- 269:7-11;

- 270:16.

In all other respects, the Administrative Motion is DENIED, the designating parties not having sought to have other portions sealed.

5. To the extent the Administrative Motion seeks leave to file under seal the deposition transcript of Daniel Adelman (January 12, 2024) (Monteverde. Decl. Attachment 1, Doc. No. 154-1), the administrative motion is GRANTED as to the following page and line numbers:

- 9:20-22;
- 9:24;
- 10:4.

In all other respects, the Administrative Motion is DENIED, the designating parties not having sought to have other portions sealed.

6. To the extent the Administrative Motion seeks leave to file under seal the deposition transcript of Eric Bjerkholt (December 14, 2023) (Monteverde. Decl. Attachment 3, Doc. No. 154-3), the administrative motion is GRANTED as to the following page and line numbers:

- 17:21-22;
- 18:3;
- 18:7-8.

In all other respects, the Administrative Motion is DENIED, the designating parties not having sought to have other portions sealed.

7. To the extent the Administrative Motion seeks leave to file under seal the deposition transcript of Jayson Dallas (December 12, 2023) (Monteverde. Decl. Attachment 4, Doc. No. 154-4), the administrative motion is GRANTED as to the following page and line numbers:

- 19:8;
- 19:11-12;
- 28:23.

1 In all other respects, the Administrative Motion is DENIED, the designating parties
2 not having sought to have other portions sealed.

3 8. To the extent the Administrative Motion seeks leave to file under seal the
4 deposition transcript of Brian Greenblatt (January 24, 2024) (Monteverde. Decl.
5 Attachment 7) (Doc. No. 154-7), the administrative motion is GRANTED as to the
6 following page and line numbers:

- 7 • 10:21-23;
- 8 • 11:1-2.

9 In all other respects, the Administrative Motion is DENIED, the designating parties
10 not having sought to have other portions sealed.

11 9. To the extent the Administrative Motion seeks leave to file under seal the
12 deposition transcript of Mark McDade (November 28, 2023) (Monteverde. Decl.
13 Attachment 10, Doc. No. 154-10), the administrative motion is GRANTED as to the
14 following page and line numbers:

- 15 • 7:21;
- 16 • 7:23;
- 17 • 8:1-2;
- 18 • 8:7-8;
- 19 • 8:15-17;
- 20 • 98:7-8;
- 21 • 98:13-14;
- 22 • 106:19-20;
- 23 • 106:21-22.

24 In all other respects, the Administrative Motion is DENIED, the designating parties
25 not having sought to have other portions sealed.

26 10. To the extent the Administrative Motion seeks leave to file under seal the
27 deposition transcript of Patrick Enright (November 17, 2023) (Monteverde. Decl.
28 Attachment 5, Doc. No. 154-5), the administrative motion is GRANTED as to the

1 following page and line numbers:

- 2 • 11:5-7;
- 3 • 11:10;
- 4 • 11:12-13;
- 5 • 11:22-23.

6 In all other respects, the Administrative Motion is DENIED, the designating parties
7 not having sought to have other portions sealed.

8 11. To the extent the Administrative Motion seeks leave to file under seal the
9 deposition transcript of Stacey Seltzer (January 19, 2024) (Monteverde. Decl. Attachment
10 12, Doc. No. 154-12), the administrative motion is GRANTED as to the following page
11 and line numbers:

- 12 • 6:18-20;
- 13 • 6:23-24;
- 14 • 7:4;
- 15 • 7:5-6;
- 16 • 57:8-9.

17 In all other respects, the Administrative Motion is DENIED, the designating parties
18 not having sought to have other portions sealed.

19 12. To the extent the Administrative Motion seeks leave to file under seal the
20 deposition transcript of Katie Falberg (January 11, 2024) (Monteverde. Decl. Attachment
21 6, Doc. No. 148-6), the administrative motion is GRANTED as to the following page and
22 line numbers:

- 23 • 7:11;
- 24 • 7:16-17;
- 25 • 26:14;
- 26 • 26:17-20;
- 27 • 28:9;
- 28 • 70:8-10.

1 In all other respects, the Administrative Motion is DENIED, the designating parties
2 not having sought to have other portions sealed.

3 13. To the extent the Administrative Motion seeks leave to file under seal Exhibit 28 to
4 the Monteverde Declaration, Bates stamped AIMMUNE-0245925-28 (Doc. No. 154-27),
5 the Administrative Motion is GRANTED as to AIMMUNE-0245925-26.

6 In all other respects, the Administrative Motion is DENIED, the designating parties
7 not having sought to have other portions sealed.

8 14. To the extent the Administrative Motion seeks leave to file under seal Exhibit 35 to
9 the Monteverde Declaration, Bates stamped BOAS_AIMMUNE00003430-3442 (Doc. No.
10 154-29), the Administrative Motion is GRANTED as to BOAS_AIMMUNE00003430-3436.

11 In all other respects, the Administrative Motion is DENIED, the designating parties
12 not having sought to have other portions sealed.

13 15. To the extent the Administrative Motion seeks leave to file under seal Exhibit 43 to
14 the Monteverde Declaration, Bates stamped AIMMUNE-0132295-99 (Doc. No. 154-32),
15 the Administrative Motion is GRANTED.

16 16. To the extent the Administrative Motion seeks leave to file under seal Exhibit 45 to
17 the Monteverde Declaration, Bates stamped BOAS_AIMMUNE00008330-34 (Doc. No.
18 154-34), the Administrative Motion is GRANTED.

19 17. To the extent the Administrative Motion seeks leave to file under seal Exhibit 64 to
20 the Monteverde Declaration, Bates stamped AIMMUNE-0025754-59 (Doc. No. 154-42),
21 the Administrative Motion is GRANTED.

22 18. To the extent the Administrative Motion seeks leave to file under seal Exhibit 79 to
23 the Monteverde Declaration, Bates stamped BOAS_AIMMUNE00000455-509 (Doc. No.
24 154-50), the Administrative Motion is GRANTED.

25 19. To the extent the Administrative Motion seeks leave to file under seal Exhibit 81 to
26 the Monteverde Declaration, Bates stamped NESTLE_0004441-484 (Doc. No. 154-51),
27 the Administrative Motion is GRANTED.

28 20. To the extent the Administrative Motion seeks leave to file under seal Exhibit 82 to

1 the Monteverde Declaration, Bates stamped BOAS_AIMMUNE00000009-63 (Doc. No.
2 154-52), the Administrative Motion is GRANTED.

3 21. To the extent the Administrative Motion seeks leave to file under seal Exhibit 84 to
4 the Monteverde Declaration, Bates stamped NESTLE_0005652-55 (Doc. No. 154-53),
5 the Administrative Motion is GRANTED.

6 22. To the extent the Administrative Motion seeks leave to file under seal Exhibit 95 to
7 the Monteverde Declaration, Bates stamped Aimmune-0061724-28 (Doc. No. 154-57),
8 the Administrative Motion is GRANTED.

9 23. To the extent the Administrative Motion seeks leave to file under seal Exhibit 98 to
10 the Monteverde Declaration, Bates stamped BOAS_AIMMUNE00007539-40 (Doc. No.
11 154-59), the Administrative Motion is GRANTED.

12 24. To the extent the Administrative Motion seeks leave to file under seal the
13 deposition transcript of Michael Kingston and Exhibits 6-7, 9-10, 12-14, 16, 18, 19-22, 34,
14 39, 44, 48, 49, 55, 57, 59-60, 63, 66-67, 70, 73-75, 77, 93-94, 96, 102-103, 134-136 to
15 the Monteverde Declaration, the Administrative Motion is DENIED, the designating
16 parties not having sought to have said transcript or any portions thereof sealed.

17 Plaintiffs are hereby DIRECTED to file in the public record, no later than fourteen
18 days from the date of this order:

19 a. revised redacted versions of "Co-Lead Plaintiffs' Motion for Partial Summary
20 Judgment and Memorandum of Supporting Points and Authorities";

21 b. revised redacted versions of:

22 i. the deposition transcripts of Gregory Behar, Martin Hendrix, Andrew
23 Oxtoby, Daniel Adelman, Eric Bjerkholt, Jayson Dallas, Brian
24 Greenblatt, Mark McDade, Patrick Enright, Stacey Seltzer, and Katie
25 Falberg;

26 ii. Exhibits 28 and 35 to the Monteverde Declaration;


27 c. unredacted versions of:

28 i. the deposition transcript of Michael Kingston;

ii. Exhibits 6-7, 9-10, 12-14, 16, 18, 19-22, 34, 39, 44, 48, 49, 55, 57, 59-60, 63, 66-67, 70, 73-75, 77, 93-94, 96, 102-103, 134-136 to the Monteverde Declaration.

IT IS SO ORDERED.

Dated: September 26, 2024


MAXINE M. CHESNEY
United States District Judge

United States District Court
Northern District of California